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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,489	03/05/2004	Brian S. McCain	TUC920030184US1 (17306)	3039
46263 7590 02/02/2009 SCULLY, SCOTT, MURPHY, & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER NAJEE-ULLAH, TARIQ S				
ART UNIT 2456		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/796,489

**Applicant(s)**

MCCAIN ET AL.

**Examiner**

TARIQ S. NAJEE-ULLAH

**Art Unit**

2456

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 20, 2008 has been entered.

### ***Response to Amendment***

2. This Office action has been issued in response to Applicant's Amendment and Request for Continued Examination filed November 20, 2008. Claims 1-18 are pending in the application. Claims 1, 7 and 13 have been amended.

### ***Response to Arguments***

Regarding the rejection of claims 1-18 under 35 U.S.C. 103(a) as being unpatentable over US Patent No 6,065,053 to Nouri et al (Nouri hereinafter) in view of US Patent No 6,851,105 to Coad et al (Coad hereinafter), Applicant's arguments filed November 20, 2008 have been fully considered but they are not persuasive. Applicant argues that the combination under 35 U.S.C. 103(a) of Nouri-Coad does not disclose, suggest or teach the server host executes the instructions in the command without knowledge of the first data and the purpose of the command. Examiner respectfully disagrees. In figure 3, Nouri clearly discloses request message format information in the messaging between the microcontroller and the remote client which includes data

such as start of message, end of message, sequence number, and check, i.e. first data (Nouri, col. 11, line 29 – col. 12, line 46). Examiner asserts that this protocol format information encapsulates the request information to provide error-free communication and security. Examiner further asserts that this information is not part of the actual encapsulated command that is executed (Nouri, col. 12, line 63 – col. 13, line 28).

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 7 and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 7 and 13 recites that a command is executed **"without knowledge of the first data and the purpose of the command."**

Applicant cites paragraph 12 of the original disclosure as support for this amendment. While the paragraph provides proper antecedent basis for the text of this amendment, Applicant's disclosure paragraph 12 does not provide a proper written description detailing in full, clear, concise and exact terms how this limitation would be accomplished as claimed.

5. Claims 1, 7 and 13 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for executing a command, does not reasonably provide enablement for executing a command **“without knowledge of the purpose of the command”**. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to execute a command **“without knowledge of the purpose of the command”** the invention commensurate in scope with these claims. The example described in the Applicant's disclosure paragraph 12 does not provide a proper enabling description of how this limitation would be accomplished as claimed. For example, Examiner is unclear as to the meaning of “the purpose of the command.” In paragraph 12, Applicant presents a submit command which, when executed, stores first data in a database. It is unclear how this command can be executed without meeting the purpose of the command itself. Examiner encourages the Applicant to provide further clarity.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 7 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 7 and 13 recite **“without knowledge of the first data and the purpose of the command.”** Applicant has not provided a proper written description or enabling information to convey a clear and distinct meaning of this limitation. For the purposes of examination, Examiner interprets

this limitation to mean that first data associated with or communicated with the encapsulated command does not have to be processed in order for the command to be executed.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No 6,065,053 to Nouri et al (Nouri hereinafter) in view of US Patent No 6,851,105 to Coad et al (Coad hereinafter).

Regarding claims 1 and 7, Nouri teaches **using a command pattern to encapsulate instructions and first data into a command object** (Nouri, col. 14, lines 32-37; reference teaches an encapsulated command and state information, i.e. first data); **and providing the command object to the server host** (Nouri, col. 14, lines 32-37; reference teaches an encapsulated command and state information, i.e. first data); **wherein the server host executes the instructions in the command object to provide second data, based on the first data, in the command object, and returns the command object with the second data to the client host** (Nouri, col. 14, lines 36-54; reference teaches processing the command and responding to the request with the appropriate action, i.e. second data.), **and wherein said command pattern is**

**applied in a graphical user interface** (Nouri, col. 6, line 35) **and the server host executes the instructions in the command object without knowledge of the first data and the purpose of the command** (Nouri discloses request message format information in the messaging between the microcontroller and the remote client which includes data such as start of message, end of message, sequence number, and check, i.e. first data; Nouri, col. 11, line 29 – col. 12, line 46. Examiner asserts that this protocol format information encapsulates the request information to provide error-free communication and security. This information is not part of the actual encapsulated command that is executed; Nouri, col. 12, line 63 – col. 13, line 28).

While Nouri does refer to a graphical user interface, Nouri does not explicitly teach **command pattern is applied in a graphical user interface**. Coad teaches **command pattern is applied in a graphical user interface (GUI)** (Coad, encapsulated command pattern, col. 7, lines 30-37; applied in a GUI, col. 8, lines 59-67). Nouri and Coad are analogous art because they are from the same field of endeavor of computer networks and data management within a computer network environment communication. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Coad's GUI with Nouri's command pattern encapsulation. The suggestion/motivation would have been to improve the structure and performance of object-oriented program development in a computer network environment (Coad, col. 2, lines 58-64).

Regarding claims 2 and 8, Nouri-Coad further discloses the invention substantially as described in claim 1, including wherein **the second data provides a**

**reference to a resource** (Nouri, col. 14, lines 36-54; reference teaches processing the command and responding to the request with the appropriate action, i.e. second data.).

Regarding claims 3 and 9, Nouri-Coad further discloses the invention substantially as described in claim 2, including wherein: **the resource comprises a database** (Nouri, fig. 11; reference teaches data in a log, i.e. database).

Regarding claims 4 and 10, Nouri-Coad further discloses the invention substantially as described in claim 1, including wherein: **the command object is a single object** (Nouri, col. 13, lines 4-16; reference teaches a single read or write command).

Regarding claims 5 and 11, Nouri-Coad further discloses the invention substantially as described in claim 1, including **further comprising: interpreting the second data in the returned command object** (Nouri, col. 14, lines 36-54; reference teaches processing the command and responding to the request with the appropriate action, i.e. second data.).

Regarding claims 6 and 12, Nouri-Coad further discloses the invention substantially as described in claim 1, including **wherein: the instructions include instructions for processing the first data to obtain the second data** (Nouri, col. 14, lines 32-54; reference teaches an encapsulated command and state information, i.e. first data and reference teaches processing the command and responding to the request with the appropriate action, i.e. second data.).

Regarding claim 13, Nouri teaches **receiving a command object from the client host; wherein a command pattern is used by the client host to encapsulate**



**instructions and first data into the command object** (Nouri, col. 14, lines 32-37; reference teaches an encapsulated command and state information, i.e. first data); **executing the instructions in the command object to provide second data, based on the first data, in the command object; and returning the command object with the second data to the client host** (Nouri, col. 14, lines 36-54; reference teaches processing the command and responding to the request with the appropriate action, i.e. second data.), **and wherein said command pattern is applied in a graphical user interface** (Nouri, col. 6, line 35) **and the server host executes the instructions in the command object without knowledge of the first data and the purpose of the command** (Nouri discloses request message format information in the messaging between the microcontroller and the remote client which includes data such as start of message, end of message, sequence number, and check, i.e. first data; Nouri, col. 11, line 29 – col. 12, line 46. Examiner asserts that this protocol format information encapsulates the request information to provide error-free communication and security. This information is not part of the actual encapsulated command that is executed; Nouri, col. 12, line 63 – col. 13, line 28).

While Nouri does refer to a graphical user interface, Nouri does not explicitly teach **command pattern is applied in a graphical user interface**. Coad teaches **command pattern is applied in a graphical user interface (GUI)** (Coad, encapsulated command pattern, col. 7, lines 30-37; applied in a GUI, col. 8, lines 59-67). Nouri and Coad are analogous art because they are from the same field of endeavor of computer networks and data management within a computer network

environment communication. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Coad's GUI with Nouri's command pattern encapsulation. The suggestion/motivation would have been to improve the structure and performance of object-oriented program development in a computer network environment (Coad, col. 2, lines 58-64).

Regarding claim 14, Nouri-Coad further discloses the invention substantially as described in claim 13, including **wherein: the second data provides a reference to a resource** (Nouri, col. 14, lines 36-54; reference teaches processing the command and responding to the request with the appropriate action, i.e. second data.).

Regarding claim 15, Nouri-Coad further discloses the invention substantially as described in claim 14, including **wherein: the resource comprises a database** (Nouri, fig. 11; reference teaches data in a log, i.e. database).

Regarding claim 16, Nouri-Coad further discloses the invention substantially as described in claim 13, including **wherein: the command object is a single object** (Nouri, col. 13, lines 4-16; reference teaches a single read or write command).

Regarding claim 17, Nouri-Coad further discloses the invention substantially as described in claim 13, including **wherein: the client host interprets the second data in the returned command object** (Nouri, col. 14, lines 36-54; reference teaches processing the command and responding to the request with the appropriate action, i.e. second data.).

Regarding claim 18, Nouri-Coad further discloses the invention substantially as described in claim 13, including **wherein: the instructions include instructions for**

**processing the first data to obtain the second data** (Nouri, col. 14, lines 32-54; reference teaches an encapsulated command and state information, i.e. first data and reference teaches processing the command and responding to the request with the appropriate action, i.e. second data.).

### ***Conclusion***

10. In conclusion, in an effort to better place the claims in condition for allowance, Examiner encourages further modification of claim language to include language that is more precisely descriptive and provides a more clear representation of what the Applicant presents as the invention in the specification in a manner which overcomes the prior art as presented. Examiner also reminds Applicant that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TARIQ S. NAJEE-ULLAH whose telephone number is (571)270-5013. The examiner can normally be reached on Monday through Friday 8:30 - 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

T. N.

/Kenny S Lin/

Primary Examiner, Art Unit 2452